

**STATE OF ILLINOIS**

**ILLINOIS COMMERCE COMMISSION**

<b>The Department of Transportation of the</b>	:	
<b>State of Illinois, for and in behalf of the</b>	:	
<b>People of the State of Illinois</b>	:	
<b>-vs-</b>	:	
<b>Illinois Bell Telephone Company, an</b>	:	<b>03-0670</b>
<b>Illinois corporation; Ameritech</b>	:	
<b>Corporation, a Delaware corporation</b>	:	
<b>and Unknown Owners</b>	:	
	:	
<b>Petition for approval of the taking or</b>	:	
<b>damaging of certain properties owned by</b>	:	
<b>a public utility in Lake County, Illinois, by</b>	:	
<b>exercising the right of eminent domain.</b>	:	

**ORDER**

By the Commission:

On October 29, 2003, the Department of Transportation of the State of Illinois ("Petitioner") filed its verified Petition with the Illinois Commerce Commission ("Commission") to approve the taking of certain real estate owned by Illinois Bell Telephone Company, an Illinois corporation d/b/a Ameritech Illinois and Ameritech Corporation, a Delaware corporation, d/b/a SBC Ameritech ("SBC"), a public utility subject to the jurisdiction of the Illinois Commerce Commission, through exercise of the power of eminent domain.

Pursuant to notice by the Commission to all parties to this proceeding, a hearing was conducted on March 9, 2004 before a Administrative Law Judge of the Commission.

The Petitioner attached a plat of highways and legal description to its Petition and presented as Exhibit B graphically describing the proposed construction project and the parcel affected thereby. The Petitioner also presented the Stipulation signed by the Petitioner and SBC, and the record was "Taken and Heard" by the Hearing Examiner. All facts necessary for a decision herein are adequately contained in the record of proceedings.

The Commission having considered the verified Petition, the Stipulation presented and all exhibits in the record herein and being fully advised in the premises, is of the opinion and finds:

- (a) the Department of Transportation of the State of Illinois exists by virtue of the laws of the State of Illinois;
- (b) SBC is a regulated public utility in the State of Illinois;
- (c) the Commission has jurisdiction of the parties hereto and the subject matter hereof;
- (d) under and by virtue of the Illinois Highway Code, Chapter 605 ILCS 5/4-501, Petitioner is engaged in the reconstruction and improvement of FAP 337 (IL Route 22) in Lake County, Illinois;
- (e) the land is legally described in Exhibit A, attached hereto and made a part hereof, and is required as part of a project to reconstruct and improve FAP 337 (IL Route 22) in Lake County, Illinois;
- (f) the subject land, rights, and other property are private property and SBC has an interest in or claims to have some interest therein;
- (g) the work and improvement project is a public work, is for public use, and constitutes a public purpose, namely a public highway; it is necessary to the public convenience and necessity that Petitioner have and acquire for the use of the People of the State of Illinois for highway purposes a perpetual highway easement in and to the property as described in Exhibit A;
- (h) the Department has the right to condemn SBC's property, and to acquire a perpetual easement for public highway purposes in Parcel 1DH 0118PE, legally described in Exhibit A, including therein the right for the Department, and others the Department may allow by permit, to use or operate, install, maintain, alter, repair, replace, renew, improve and remove other facilities and structures over, upon and beneath the surface of Parcel 1DH 0118PE. The easement in favor of the Department shall be subject to the right of SBC to cross, traverse, or otherwise occupy said lands with SBC's present and now existing underground conduit system and manholes (the "existing conduit system") located in Parcel 1DH 0118PE, in a manner consistent with the Department's permitting procedures and the perpetual easement for highway purposes, and in a manner which will not interfere with the Department's use, maintenance and operation of its right-of-way for public road and highway purposes. The reasonable costs of any relocation or alteration of the existing conduit system, and the cables, wires and equipment now or hereafter placed therein, if required in the future by the Department for any reason, including but not limited to the use, maintenance and operation of its right-of-way for public road and highway purposes on or across Parcel 1DH 0118PE, shall be paid by the Department. Except as otherwise

hereinabove provided, the Department shall not be responsible for any other costs of any relocation or alteration concerning any improvements or other facilities hereafter placed or constructed on, over or under Parcel 1DH 0118PE. Except as otherwise hereinabove provided, the costs of any and all other relocations or alterations of SBC's existing conduit system, or of new facilities, (new facilities shall not include cables, wires and equipment hereafter placed in the existing conduit system shall be paid by SBC or by the other party (not including the Department) properly responsible therefore under law. The construction of any future facility by SBC, or any maintenance, alteration or repair of the existing facilities, shall conform to such reasonable rules, regulations, and permits relating to such proposed construction as may be promulgated by the Department.

Except as provided above, the Department shall have no obligation hereunder to pay, or to reimburse costs, for relocation or alteration of any structures. The Department's obligation to pay, or reimburse SBC, for any costs hereunder shall terminate, and the Department shall have no further obligation to the Utility hereunder, after such time as SBC's existing conduit system, and any cables and wires hereafter placed therein, is relocated from Parcel 1 DH 0118PE. It is necessary for the Department to acquire Parcel 1DH 0118PE for the above-described highway construction and improvement project in Lake County for the use of the People of the State of Illinois; that just compensation for the taking shall be determined by order of the Circuit Court of Lake County, and the Department is therefore authorized, with the approval of the Commission, to proceed to acquire said land, rights, or other property through the exercise of the right of eminent domain under the eminent domain laws of this State;

IT IS THEREFORE ORDERED that the approval of the Illinois Commerce Commission be, and it is hereby, granted to the Department of Transportation of the State of Illinois to exercise the power of eminent domain for the taking of real property owned by Respondent as legally described in Exhibit A attached to the Department's Petition filed herein.

IT IS FURTHER ORDERED that in accordance with Chapter 625 ILCS 5/18c-2201 and 5/18c-2206 of the Illinois Commercial Transportation Law, this is a final order subject to the Administrative Review Law.

By Order of the Commission this 30<sup>th</sup> day of March 2004.

(SIGNED) EDWARD C. HURLEY

Chairman